

REMARKS

In response to the Official Action mailed March 15, 2001, Applicants amend their application and request reconsideration. Claims 1-9 are pending in this application and remain pending since no claims are added or cancelled.

A minor informality in claim 7 is corrected in this Amendment.

Although the PTO-326 Form accompanying the Official Action indicated that claims 1-9, all of the claims pending in the application, were rejected. Page 2 of the Official Action only refers to the rejection of claims 1-7. It is presumed that it was intended to refer to claims 1-9 and that claims 1-9 are all rejected pursuant to 35 U.S.C. §102(a) as anticipated by Yamaguchi et al. (Japanese Published Patent Application 11-187634, hereinafter Yamaguchi). This rejection is respectfully traversed.

As an initial point, the Examiner referred to the publication relied upon in rejecting the claims as JP-9364163. That number is the application number of that Japanese patent application, not its publication number. The publication number is 11-187634 as clearly shown by the copy of the publication attached to the Official Action. While the correct publication date, July 9, 1999 is shown in the PTO-892 Form accompanying the Official Action, it is requested that the document number be corrected on that form to the publication number in a supplemental PTO-892 Form to ensure accuracy in the printing of any issued patent.

The rejection is legally erroneous and therefore traversed. 35 U.S.C. § 102(a) prohibits patenting if "the invention was...described in a printed publication...before the invention thereof by the applicant for patent". This section has no applicability here because the publication of the invention by Yamaguchi is by the applicant.

As shown in the Official Filing Receipt associated with this patent application, while no priority of foreign patent applications is claimed, the related foreign applications are identified, namely JP 9-364162 and JP 9-364163, the latter being the very application from which the publication cited by the Examiner was taken.

JP 09-364162 designates as inventors Mr. Yamaguchi and Mr. Arai, two of the present applicants. JP-09-364163 designates as the inventors Mr. Yamaguchi and Mr. Koyanagi, also two of the inventors of the present application. Because of the combination

of the two Japanese patent applications in the preparation of the present patent application, there are three inventors named in the U.S. patent application, the same three inventors named in the two Japanese patent applications, although in separate groups. In fact, the invention disclosed and claimed in the present U.S. patent application is the same invention disclosed in the two Japanese patent applications, one of which is cited in its published form, as the sole reference here.

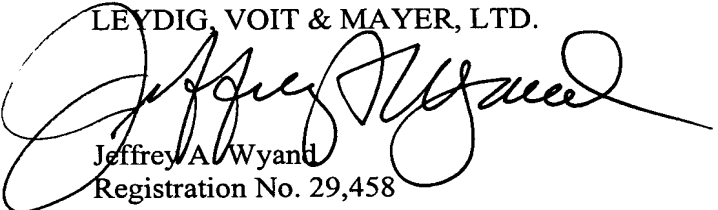
Since the invention was made by the present applicants, the publication in Japan of JP 11-187634 cannot be prior art pursuant to 35 U.S.C. § 102(a) to the present application because it does not represent a description in a printed publication before the invention by the applicant for patent. It is a description of the same invention by the same applicant so it cannot be evidence of earlier invention by another.

Moreover, since the Japanese publication took place not more than one year prior to the date of filing of the present patent application, 35 U.S.C. § 102(b) has no applicability here. In fact, there is no section of 35 U.S.C. § 102 that has any application here because Yamaguchi is simply not prior art to the present application under any statutory section. Since Yamaguchi is not prior art, it must not be applied in rejecting any claim of the present application.

Accordingly, upon reconsideration, the rejection should be withdrawn and claims 1-9 allowed.

Respectfully submitted,

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